

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

SOUTH CAROLINA COASTAL)	
CONSERVATION LEAGUE, <i>et al.</i> ,)	
)	Case No. 2:20-cv-01687-BHH
<i>Plaintiffs,</i>)	
)	
v.)	
)	
MICHAEL REGAN, <i>et al.</i> ,)	
)	
<i>Defendants,</i>)	
)	
AMERICAN FARM BUREAU FEDERATION,)	
<i>et al.</i> ,)	
<i>Intervenor-Defendants.</i>)	
)	
)	

**INTERVENOR-DEFENDANTS’ RESPONSE IN SUPPORT OF AGENCIES’ MOTION
FOR VOLUNTARY REMAND, OPPOSITION TO PLAINTIFFS’ MOTION FOR
SUMMARY JUDGMENT, AND CROSS-MOTION FOR SUMMARY JUDGMENT**

Intervenor-Defendants the American Farm Bureau Federation, American Petroleum Institute, American Road and Transportation Builders Association, Chamber of Commerce of the United States of America, Leading Builders of America, National Alliance of Forest Owners, National Association of Home Builders, National Cattlemen’s Beef Association, National Corn Growers Association, National Mining Association, National Pork Producers Council, National Stone, Sand, and Gravel Association, North Carolina Farm Bureau, Public Lands Council, South Carolina Farm Bureau, and U.S. Poultry & Egg Association (collectively “Intervenor-Defendants”), through the undersigned counsel, file the attached memorandum of law containing their combined response in support of the agencies’ motion for voluntary remand, opposition to plaintiffs’ motion for summary judgment, and cross-motion for summary judgment. For the

reasons in the accompanying memorandum, the Court should grant the agencies' motion for voluntary remand without vacatur.

In the alternative, should the Court decline to grant the agencies' motion for voluntary remand, the Intervenor-Defendants hereby move for summary judgment as to all claims in this action pursuant to Federal Rule of Civil Procedure 56. For the reasons noted in the accompanying memorandum, the challenged administrative action here, "The Navigable Waters Protection Rule: Definition of 'Waters of the United States,'" 85 Fed. Reg. 22,250 (Apr. 21, 2020) ("2020 Rule"), complies with the Administrative Procedure Act, the Clean Water Act, and Supreme Court precedent.

This Court should accordingly grant the agencies' motion for voluntary remand; or, in the alternative, this Court should grant the Intervenor-Defendants Cross Motion for Summary Judgment and deny Plaintiffs' motion for Summary Judgment.

Dated: June 28, 2021

Respectfully submitted,

/s/ W. Thomas Lavender, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that, on June 28, 2021, I filed and thereby caused the foregoing document to be served via the CM/ECF system in the United States District Court for the District of South Carolina on all parties registered for CM/ECF in the above-captioned matter.

/s/ W. Thomas Lavender, Jr.